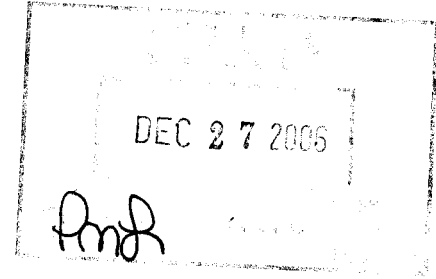


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Attorneys for Plaintiff
 UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA

06CR2708-LAB

UNITED STATES OF AMERICA,

Magistrate Case No. 06MJ2287

Plaintiff,

v.

**STIPULATION OF FACT AND JOINT
 MOTION FOR RELEASE OF
 MATERIAL WITNESS(ES) AND
 ORDER THEREON**

FRANCISCO CONEJO-RODRIGUEZ,

Defendant.

(Pre-Indictment Fast-Track Program)

IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Carol C. Lam, United States Attorney, and William A. Hall, Jr., Assistant United States Attorney, and defendant FRANCISCO CONEJO-RODRIGUEZ, by and through and with the advice and consent of defense counsel, Robert L. Swain, Esq., that:

1. Defendant agrees to execute this stipulation on or before the first preliminary hearing date and to participate in a full and complete inquiry by the Court into whether defendant knowingly, intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead guilty to the pre-indictment information charging defendant with a non-mandatory minimum count of Bringing in Aliens Without Presentation and Aiding and Abetting, in violation of 8 U.S.C. § 1324(a)(2)(B)(iii) and 18 U.S.C. § 2.

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1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
2 provide the signed, original plea agreement to the Government not later than five business days
3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
5 before **January 12, 2007**.

6 4. The material witnesses, Maria Garcia-Ibarra, Rebeca Solis-Perez and Fernando Rene
7 Villalva-Mendiola, in this case:

8 a. Are aliens with no lawful right to enter or remain in the United States;

9 b. Entered or attempted to enter the United States illegally on or about
10 December 14, 2006;

11 c. Were found in a vehicle driven by defendant at the Otay Mesa, California Port
12 of Entry (POE) and that defendant knew or acted in reckless disregard of the fact that they were
13 aliens with no lawful right to enter or remain in the United States;

14 d. Were paying \$1,500-\$2,500 to others to be brought into the United States
15 illegally and/or transported illegally to their destination therein; and,

16 e. May be released and remanded immediately to the Department of Homeland
17 Security for return to their country of origin.

18 5. After the material witnesses are ordered released by the Court pursuant to this
19 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
20 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,
21 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

22 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
23 substantive evidence;

24 b. The United States may elicit hearsay testimony from arresting agents
25 regarding any statements made by the material witness(es) provided in discovery, and such testimony
26 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest
27 of (an) unavailable witness(es); and,

28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Francisco Conejo-Rodriguez

1 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
2 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted
3 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant
4 waives the right to confront and cross-examine the material witness(es) in this case.

5 6. By signing this stipulation and joint motion, defendant certifies that defendant has
6 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
7 further that defendant has discussed the terms of this stipulation and joint motion with defense
8 counsel and fully understands its meaning and effect.

9 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
10 immediate release and remand of the above-named material witness(es) to the Department of
11 Homeland Security for return to their country of origin.

12 It is STIPULATED AND AGREED this date.


13 Respectfully submitted,

14 CAROL C. LAM
15 United States Attorney

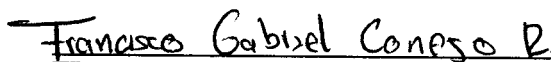
16 Dated: 12/27/06

17 
WILLIAM A. HALL, JR.
Assistant United States Attorney

18 Dated: 12-19-06

19 
ROBERT L. SWAIN
20 Defense Counsel for CONEJO-RODRIGUEZ

21 Dated: 12-19-06

22 
FRANCISCO CONEJO-RODRIGUEZ
23 Defendant

ORDER

Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to their country of origin.

SO ORDERED.

Dated: 12/27/06.



United States Magistrate Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)

Plaintiff)

vs.)

FRANCISCO CORNEJO -
Rodriguez
Defendant(s)

CRIMINAL NO. 06MJ2287

ORDER

RELEASING MATERIAL WITNESS

Booking No.

On order of the United States District Magistrate Judge,

Leo S. Papas

IT IS HEREBY ORDERED that the following named person heretofore
committed to the custody of the United States Marshal as a material witness be
released from custody: (Bond Posted / Case Disposed Order of Court.)

MARIA GARCIA-IBARRA

DATED: December 27, 2006

Leo S. Papas

UNITED STATES DISTRICT/MAGISTRATE JUDGE

RECEIVED

DUSM

OR

W. SAMUEL HAMRICK, JR. Clerk

by

Pm. Lopez
Deputy Clerk